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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,806	05/02/2001	Ferdinand Kristen	DT-3897	4906
30377	7590	07/06/2004	EXAMINER	
DAVID TOREN, ESQ. SIDLEY, AUSTIN, BROWN & WOOD, LLP 787 SEVENTH AVENUE NEW YORK, NY 10019-6018				TRAN, LOUIS B
ART UNIT		PAPER NUMBER		
		3721		

DATE MAILED: 07/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/847,806	KRISTEN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Louis B Tran	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 09 February 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.

- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. This action is in response to applicant's amendment, received on 02/09/2004.

### ***Claim Objections***

2. Claim 2 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Applicant has attempted to withdraw claim 2 instead of canceling the claim due to incorporation into claim 1. No election restriction is present therefore, the withdrawal is improper.

Claim 3 objected to because of the following informalities: Claim 3 is labeled as "currently amended" but no visible amendment has been made by the Applicant. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guzzella (5,584,619) in view of Steffen (6,123,158) in further view of Moolenaar et al. (5,385,512).

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Guzzella discloses the invention substantially as claimed including an electric hand tool apparatus M for driving a drilling tool effecting at least partially a rotational movement and comprising a housing, an electric motor 7 within said housing, motor control electronics including a microcontroller 3 within said housing in operational engagement with said electric motor 7 and arranged to control the rpm of said electric motor, a force transfer path, seen in Figure 2, from said motor to a transmission and rpm-dependent clutch 5 in the force transfer path for transmitting torque from said electric motor to said transmission and a sensor 1 connected with and to said housing for determining a future excessively high twisting of said housing for actively braking said motor.

With respect to claim 2, Guzzella shows wherein a sensor 1 is connecting with and to said housing for detecting a future excessively high twisting of said housing.

With respect to claims 1 and 3, Guzzella does not show a specific magnetic reluctance motor free of a collector and slip ring for producing a torque and rapidly braking.

However, Steffen teaches the use of a magnetic reluctance motor and a motor free of a collector and slip ring for producing torque. Moreover, Steffen specifically states that these types of motors are well known in the art for their low wear characteristics as described in column 1, lines 20-30.

Therefore, it would have been obvious to one having ordinary skill in the art to modify Guzzella with a specific type of motor taught in Steffen, and well known in the art, in order to decrease wear.

Moreover, Moolenaar et al. teaches the well known concept of rapid braking a motor for the purpose of further reducing the speed of the motor quickly as in column 1, lines 58-60 and column 5, lines 20-30.

Therefore, it would have been obvious to one having ordinary skill in the art to provide Guzzella with a rapid braking option in order to more effectively reduce the motor speed.

5. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guzzella (5,584,619) in view of Steffen (6,123,158) in further view of Moolenaar et al. (5,385,512).

Guzzella discloses the invention substantially as claimed including a method of operating an electric hand tool for limiting an excessively high twisting of a housing of the electric and tool in the event of an obstruction during operation, the electric hand tool M comprising a housing, an electric motor 7 for producing a torque, motor control electronics 3 within the housing in operational engagement with the electric motor for controlling rpm of the torque thereof, a transmission, seen in Figure 2, within the housing for transmitting rotational movement along a force transfer path from the motor to the transmission, and a rpm-depending clutch 5 in the force transfer path from transmitting torque from the electric motor to the transmission, a sensor 1 connected with the housing for detecting future excessively high twisting of the housing, comprising the steps of triggering a safety signal when an excessively high twisting of the housing is recorded by the sensor, actively reducing the rpm of the electric motor via the motor control electronics (which occurs inherently as in column 4, lines 50-66), and with the

reduction, of the rpm interrupting the transfer torque over the force transfer path (as in claim 4), the steps of polling and evaluating the safety signal before accelerating the electric motor via the electronic control electronics described in column 6, lines 15-45 (as in claim 5), but does not explicitly show an electric motor for producing a torque and being free of a collector and slip ring and rapid braking.

However, Steffen teaches the use of reducing the rpm of the electric motor via the motor control electronics and a motor free of a collector and slip ring for producing torque. Moreover, Steffen specifically states that these types of motors are well known in the art for their low wear characteristics as described in column 1, lines 20-30.

Therefore, it would have been obvious to one having ordinary skill in the art to modify Guzzella with a specific type of motor taught in Steffen, and well known in the art, in order to decrease wear.

Moreover, Moolenaar et al. teaches the well known concept of rapid braking a motor for the purpose of further reducing the speed of the motor quickly as in column 1, lines 58-60 and column 5, lines 20-30.

Therefore, it would have been obvious to one having ordinary skill in the art to provide Guzzella with a rapid braking option in order to more effectively reduce the motor speed.

### ***Conclusion***

6. Applicant's remarks have been fully considered but are deemed moot in view of the new grounds of rejection.

Applicant contends Guzzella is not connected to the tool housing. However, claims are given their broadest reasonable interpretation.

**con·nect (ke-nèkt')** *verb*

**con·nect·ed, con·nect·ing, con·nects** *verb, transitive*

1. To join or fasten together.
2. To associate or consider as related: *no reason to connect the two events*. See synonyms at join.
3. To join to or by means of a communications circuit: *Please connect me to the number in San Diego*.
4. To plug in (an electrical cord or device) to an outlet.<sup>1</sup>

Clearly, the sensor in Guzzella is joined or fastened to the housing for practicality of operation.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

For the reasons above, the grounds of rejection are deemed proper.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis B Tran whose telephone number is 703-305-0611. The examiner can normally be reached on 8AM-6PM Monday-Friday.

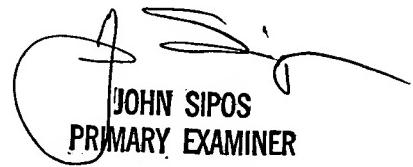
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Ibt



JOHN SIPOS  
PRIMARY EXAMINER